

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-267-C - ORDER NO. 2004-2
JANUARY 7, 2004

IN RE: Application of Utilities Commission, New)	ORDER GRANTING
Smyrna Beach d/b/a Sparks Communications)	CERTIFICATE ✓
for a Certificate of Public Convenience and)	
Necessity to Provide Interexchange and Local)	
Exchange Telecommunications Services and)	
for Alternative Regulation and Flexible)	
Regulation)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of the Utilities Commission, New Smyrna Beach d/b/a Sparks Communications ("New Smyrna" or the "Applicant" or the "Company") for authority to provide resold local exchange and intrastate interexchange telecommunications services within the State of South Carolina. The Company requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. In addition, the Company requests that the Commission regulate its business interexchange service offerings in accordance with the principles and procedures established for alternative regulation by Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Application was filed pursuant to S.C. Code Ann. Section 58-9-280 (Supp. 2002), and the Rules and Regulations of the Commission.

By letter, the Commission's Executive Director instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the

areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. The Applicant complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”).

Counsel for SCTC filed with the Commission a Stipulation in which the Applicant stipulated that it would not seek authority in non-rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until New Smyrna provided written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. The Company also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. New Smyrna agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on December 4, 2003, at 11:30 a.m. in the Commission's Hearing Room. The Honorable Mignon Clyburn, Chairman, presided. New Smyrna was represented by Bonnie Shealy, Esquire. Genevieve L. Turano, Vice

President of Communications for New Smyrna, appeared and testified on behalf of the Company. Jocelyn Boyd, Staff Counsel, represented the Commission Staff.

Ms. Turano presented testimony to demonstrate the Company's financial, managerial, and technical ability to provide the telecommunications services for which authority is sought in South Carolina. The sole witness also presented testimony regarding her background and experience in business and telecommunications as well as that of the other executives of New Smyrna's communications department. Ms. Turano also testified at length regarding the development of the telecommunications business by the New Smyrna Beach Utilities Commission and why New Smyrna is attempting to extend its operations outside the State of Florida.

According to her testimony, Ms. Turano was one of the innovators for New Smyrna's entering the telecommunications business. Since New Smyrna began operations of a telecommunications business in 1995, Ms. Turano has been responsible for the operations, sales, marketing and overall strategy of the telecommunications department. New Smyrna is a department of the New Smyrna Beach Utilities Commission which is a part of the local government of the City of New Smyrna Beach, Florida. The New Smyrna Utilities Commission was authorized to provide telecommunications services to the general public by a City Ordinance of the City Council of New Smyrna Beach. The Company provides its services under the business name of Sparks Communications as a competitive telecommunications entity to both residential and business end-users. Of particular note, Ms. Turano testified that New Smyrna does not use revenues from its regulated monopoly services (e.g. electric and

water) to fund its provision of competitive telecommunications services. The telecommunications division of New Smyrna has in fact shown a profit, and the City of New Smyrna has applied these revenues to make up for revenue shortfalls, reduce the City's debt, and pay rebates to the residents of New Smyrna Beach.

The Company is currently licensed to provide telecommunications services in the States of Florida and North Carolina and has an application pending in the State of Georgia. Regarding the services the Company seeks to provide in South Carolina, the testimony reveals that New Smyrna proposes to provide local exchange telecommunications service via resale and through the leasing of unbundled network elements, including the unbundled network platform ("UNE-P"), and to provide resold interexchange telecommunications services for the direct transmission and reception of voice and data between locations throughout the State of South Carolina. The Company intends to provide service to both residential and business customers and to resell interexchange telecommunications services, including travel service, available through toll-free access. Service is to be provided twenty-four (24) hours per day, seven (7) days per week. As New Smyrna will be operating as a reseller of local exchange and long distance service, the Company's traffic will be routed entirely over the network of its underlying carriers. Additionally, New Smyrna will rely on its facilities-based underlying carriers for the operation and maintenance of the local exchange and interexchange networks.

The testimony reveals further that New Smyrna agrees to provide and market its services in compliance with current Commission policies. In particular, Ms. Turano

testified that the Company is familiar with Commission Order No. 93-462 regarding resale of intraLATA telecommunications services and will attempt to comply with the terms of that Order in every respect possible. On behalf of New Smyrna, Ms. Turano agreed that at all times the Company will provide interstate services in compliance with the FCC rules and regulations. Ms. Turano further testified that the Company intends to market its services through telemarketing contractors and provided a script to be used by the telemarketers to the Commission.

New Smyrna has requested waivers of certain Commission rules and regulations. Specifically, New Smyrna has requested a waiver of 26 S.C. Code Regs. 103-610 which requires the maintenance of the Company's books and records in South Carolina, a waiver of 26 S.C. Code Regs. 103-631 which requires local telephone service providers to publish and distribute a local telephone directory, and a waiver of 26 S. C. Code Regs. 103-612.2.3 requiring maps of exchange service areas to be filed with the Commission.

New Smyrna's customer service representatives are available to assist the Company's customers and to promptly respond to all customer inquiries. The Company's toll free number and address will be printed on customers' monthly billing statement. Ms. Turano testified further that the Company's customer service representatives are prepared to respond to a broad range of service matters, including inquiries regarding the types of services offered by New Smyrna and the rates associated with the services, monthly billing statements, problems or concerns pertaining to a customer's current service, and general service matters.

Ms. Turano testified that the residents of South Carolina will benefit from New Smyrna's service and presence in South Carolina. The testimony reveals that customers in the Company's service territory will receive increased choice and heightened opportunities to obtain improved technology in their homes and businesses. Further, Ms. Turano opined that the granting of the certificate of authority to provide local exchange service will offer increased efficiency to the State's telecommunications infrastructure through greater reliability of services and an increase in competitive choices. The testimony reveals the Company's application to provide telecommunication services in other jurisdictions has never been denied, and the Company agrees to abide by and comply with the Commission's rules, regulations, and Orders.

At the hearing, certain questions were raised concerning the fact that New Smyrna did not have a certificate of authority to do business in the State of South Carolina by the South Carolina Secretary of State's Office. Subsequent to the hearing, New Smyrna filed a late-filed exhibit with the Commission indicating that the South Carolina Secretary of State's Office could not and would not issue such a certificate due to the fact that New Smyrna is not a "foreign corporation" but rather a unit of local government created by Florida statute.

Further concerns were raised by the Commission at the hearing regarding whether publicly financed bonds would be used to finance New Smyrna's operations in South Carolina and whether revenues generated by New Smyrna's operations in South Carolina would be used as leverage towards obtaining revenue bonds. In a second late-filed exhibit filed with the Commission subsequent to the hearing in this matter, and made a

part of the record in this case, the Director of Finance for New Smyrna confirmed that: 1) revenues generated from New Smyrna's telecommunications sales in South Carolina would not be used as leverage towards obtaining revenue bonds for electric, water, or sewer projects at the Utilities Commission of New Smyrna Beach and 2) no publicly financed bonds were used or will be used to finance their telecommunications divisions operations in South Carolina.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Utilities Commission of New Smyrna Beach is a unit of the local government of the City of New Smyrna, Florida, which was created by Florida statute and authorized to provide telecommunications services by a governmental ordinance. We find that as such a governmental entity, New Smyrna cannot obtain a Certificate of Authorization to transact business in South Carolina as a "foreign corporation" and is not required to obtain such certification from the South Carolina Secretary of State.

2. New Smyrna is a provider of local exchange and interexchange telecommunications services and wishes to provide its services in South Carolina.

3. As evidenced by its successful provisioning of telecommunications services in the State of Florida since 1995, on the basis of the financial documents made a part of the record in this case and the testimony given by Genevieve Turano at the hearing in this

matter, we find that New Smyrna has the managerial, technical, and financial resources to provide the services as described in its Application.

4. We find that New Smyrna's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 2002).

5. We find based on the testimony and documents in the record in this case that New Smyrna will support universally available telephone service at affordable rates.

6. We further find that based on its past history of operations in the State of Florida and the documents in the record in this case that New Smyrna has the capability to provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by New Smyrna will not "adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 2002).

8. We find that the issuance of the authority requested by New Smyrna is in the best interests of the citizens of the State of South Carolina.

CONCLUSIONS OF LAW

1. The Commission concludes that New Smyrna possesses the managerial, technical, and financial resources to provide the competitive local exchange telecommunications services and intrastate interexchange services as described in its Application.

2. The Commission concludes that New Smyrna's "provision of service will not adversely impact the availability of affordable local exchange service."

3. The Commission concludes that New Smyrna will participate in the support of universally available telephone service at affordable rates to the extent that New Smyrna may be required to do so by the Commission.

4. The Commission concludes that New Smyrna will provide services which will meet the service standards of the Commission.

5. The Commission concludes that approval of New Smyrna's application to provide local exchange telecommunications services and intrastate interexchange telecommunications services within South Carolina will serve the public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.

6. The Commission concludes that the provision of local exchange service by New Smyrna does not, and will not, otherwise adversely impact the public interest.

7. The Commission concludes that the issuance of the authority to provide local exchange telecommunications services and intrastate interexchange telecommunications services as requested by New Smyrna, and as set forth in its Application, is in the best interests of the citizens of the State of South Carolina.

8. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to New Smyrna to provide competitive intrastate local exchange telecommunications services, including optional features, through the use on UNE-P or resale and to provide intrastate interexchange service via resale.

9. The Commission concludes that New Smyrna's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. The Commission has previously granted this "flexible regulation" to competitive local exchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires for the Commission to allow this flexible regulation to those carriers which request it. Specifically under flexible regulation, the Commission adopts for competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

10. The Commission concludes that New Smyrna's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to

those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

11. The Commission concludes that terms of the Stipulation between New Smyrna and the SCTC are approved and adopted as a part of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to New Smyrna to provide competitive intrastate local exchange telecommunications services,

including optional services, via resale or the leasing of unbundled network elements including UNE-P, from incumbent local exchange carriers. New Smyrna's local exchange service offerings shall be provided in compliance with the Stipulation between New Smyrna and the SCTC. Further, New Smyrna is granted authority to provide via resale intrastate interLATA interexchange telecommunications services and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The terms of the Stipulation between New Smyrna and the SCTC are approved, and adopted as a part of this Order. (The Stipulation is attached to this Order as Order Exhibit 1 and is hereby incorporated as a part of this Order.) Any proposal to provide competitive intrastate local exchange telecommunications service to rural service areas is subject to the terms of the Stipulation.

3. New Smyrna shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. New Smyrna's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for New Smyrna's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the

maximum rate levels that will have been previously approved by the Commission. Further, New Smyrna's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

4. The Commission adopts a rate design for the long distance services of New Smyrna which are consistent with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under the Commission approved alternative regulation, the business service offerings of New Smyrna, including consumer card services and operator services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff

filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to New Smyrna also.

5. With regard to the interexchange residential service offerings of New Smyrna, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

6. New Smyrna shall not adjust its interexchange residential rates below the approved maximum level without notice to the Commission and to the public. New Smyrna shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be

treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2002).

7. If it has not already done so by the date of issuance of this Order, New Smyrna shall file its revised interexchange long distance tariff within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

8. New Smyrna is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

9. With regard to the Company's offering of interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

10. New Smyrna shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If New Smyrna changes underlying carriers, it shall notify the Commission in writing.

11. With regard to the origination and termination of toll calls within the same LATA, New Smyrna shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, the Company shall comply with the imputation standard as

adopted by Order No. 93-462 and more fully described in paragraph four of the Stipulation and Appendix B approved by Order No. 93-462.

12. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

New Smyrna shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The Company shall utilize the "Authorized Utility Representative Information" form which can be located at the Commission's website at www.psc.state.sc.us/reference/forms.asp to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

13. New Smyrna shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

14. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In

recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs New Smyrna to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing voice or dial-tone services within South Carolina, New Smyrna shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

15. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

16. New Smyrna shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipts reports will necessitate the filing of intrastate information. Therefore, New Smyrna shall keep financial records on an intrastate basis for South Carolina in order to comply with the Commission’s requirements of filing an annual report and a gross receipts report. The proper form for filing annual financial information for the annual report may be found on the Commission’s website at

www.psc.state.sc.us/reference/forms.asp . The title of this form is “Annual Report for CLECs” and/or “Annual Report for Interexchange Companies.” The Company shall file the annual report form with the Commission by April 1st of each year.

Commission gross receipts forms are due to be filed with the Commission no later than August 31st of each year. The appropriate form for remitting information for gross receipts is entitled “Gross Receipts Form for Utility Companies” and may also be found on the Commission’s website at www.psc.state.sc.us/reference/forms.asp .

Additionally, pursuant to the Commission’s regulations, the Company shall file a “CLEC Service Quality Quarterly Report” with the Commission. The proper form for this report can be found at the Commission’s website at www.psc.state.sc.us/reference/forms.asp . These “CLEC Service Quality Quarterly Reports” are required to be filed within 30 days of the end of each calendar quarter.

17. The Federal Communications Commission (FCC) in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2002, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to their assigned TRS toll free

number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 1, 2001. Additionally, telephone directories were required to be updated and bill inserts promoting 711 were also required. This Company must comply with the applicable mandates. For complete information on compliance with this FCC and Commission requirement, go to the Commission's website at www.psc.state.sc.us/reference/forms.asp.

18. For good cause shown, New Smyrna is granted a waiver of the requirement under 26 S.C. Code Ann. Regs. 103-610 that it be required to maintain its books and records in South Carolina. The Company shall maintain such records at its corporate headquarters in New Smyrna Beach, Florida and shall, at its own expense, make its records and books available for inspection by the Commission or its staff at any time upon request.

19. For good cause shown, New Smyrna is granted a waiver and is hereby authorized to keep its books and financial records in accordance with Generally Accepted Accounting Principles rather than the Uniform System of Accounts method.

20. For good cause shown, New Smyrna is granted a waiver of the requirements that the Company publish and distribute a directory under 26 S.C. Code Ann. Regs. 103-631 and that it file service area maps with the Commission. New Smyrna is ordered to contact the incumbent ILECs to ensure that the Company's customers are included in the applicable directory.

21. For good cause shown, New Smyrna is granted a waiver of the requirement that it file maps of exchange service areas under 26 S.C. Ann. Regs. 103-612.2.3.

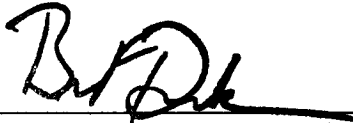
22. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn, Chairman

ATTEST:



Bruce F. Duke, Deputy Executive Director

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

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Docket No. 2003-267-C

Re: Application of Utilities Commission, New)
Smyra Beach d/b/a Sparks Communications for)
a Certificate of Public Convenience and Necessity)
to Operate as a Facilities-based and Reseller of)
Local Exchange Telecommunications Services)
and as a Reseller of Interexchange Telecommu-)
nications Services in the State of South Carolina)
_____)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Utilities Commission, New Smyra Beach d/b/a Sparks Communications ("Utilities Commission") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Utilities Commission's Application. SCTC and Utilities Commission stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Utilities Commission, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. Utilities Commission stipulates and agrees that any Certificate which may be granted will authorize Utilities Commission to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. Utilities Commission stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Utilities Commission stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Utilities Commission provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Utilities Commission acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Utilities Commission stipulates and agrees that, if Utilities Commission gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Utilities Commission will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Utilities Commission acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

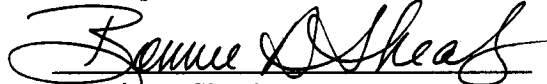
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Utilities Commission, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Utilities Commission agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Utilities Commission hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 5th day of November, 2003.

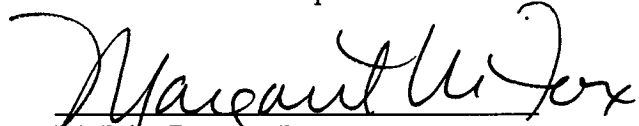
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ATTACHMENT A

South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company